Single Bench

BEFORE HON'BLE HIGH COURT OF CHHATTISGARH AT BILASPUR (C.G.)

P.R. No. 4652/04
Presented by Shri
dated

W.P. NO. 4609 **/2004**

Single Bench

Other Matter

PETITIONERS

:1. JAMPALA ISHWAR PRASAD
aged about 32 years
S/o. Madan Mohan
R/o. Ramdas Nagar
Tikarapara, Bilaspur (C.G.)

2. JAMPALA MADAN MOHAN
aged about 58 years
S/o. J.S. Raidu
R/o. Ramdas Nagar
Tikarapara, Bilaspur (C.G.)

3. JAMPALA SAI KRISHNA
aged about 35 years
S/o. Madan Mohan
R/o. Ramdas Nagar
Tikrapara, Bilaspur (C.G.)

VERSUS

RESPONDENTS

: 1. STATE OF ANDHARA-PRADESH
Through - Principal -Secretary
Department of Home Affairs
Govt. of Andhra-Pradesh
HYDERABAD (A.P.)

2. STATE STATION HOUSE OFFICER
Through : Sub-Inspector of Police
L & O Machavaram
Police Station Vijaywada City
(Andhra -Pradesh)

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3. HON'BLE FOURTH METROPOLITAN MAGISTRATE CUM-MAHILA-MAGISTRATE Vijaywada (Andhra-Pradesh)

4. SMT. JAMPALA SIRISHA
@ DUGGIRALA SIRISHA
aged about 24 years
W/o. Jampala Eswaro Prasad
and D/o. Duggirala Amarendra
Babu, R/o. F-1, Vaibhav
Apartment Maruthi-Nagar
Vijaywada-4 (A.P.)
Another address for service
of notice
C/o. Sri V.Srinivasa Raju
Sri U.S. Kumar
Sri D. Krishna
Advocate
Governo-Pet, Vijaywada
520002 (A.P.)

5. STATE OF CHHATTISGARH
Through-Secretary
Ministry of Home Affairs
Secretariat D.K.S. Bhawan
Raipur (C.G.)

PETITION UNDER ARTICLE 226/227 OF CONSTITUTION OF INDIA

1. **PARTICULARS OF THE PETITIONER**

As given in the cause title.

2. **PARTICULARS OF THE RESPONDENTS**

As given in the cause title.

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HIGH COURT OF JUDICATURE AT BILASPUR (CHHATTISGARH)

Writ Petition No.4609 of 2004

Jampala Ishwar Prasad & others

- Versus -

State of Andhra Pradesh & others

Present:-

Shri V. G. Tamaskar, Advocate:	For the petitioners.
Smt. Fouzia Mirza, Panel Lawyer:	For the State/respondent No.5.

ORDER

(Passed on 22nd December, 2004)

L.C. Bhadoo, J.

1. The petitioners have preferred this writ petition for quashment of F.I.R. No.68/04, Police Station: Machavaram, District Vijayawada, State of Andhra Pradesh for the commission of the offence under Sections 498-A and 420 of the I.P.C.

2. I have heard learned counsel for the petitioner on the question of admission of this writ petition.

3. Brief facts leading to filing of this writ petition, as setout in the writ petition, are that respondent No.4 herein was married to the petitioner No.1 on 21-11-2002 at Vijayawada, State of Andhra Pradesh and after staying one day at Vijayawada, the petitioner No.1 and respondent No.4 came to Bilaspur. On 4-10-2003 respondent No.4 left her matrimonial home with her brother, uncle and aunty and thereafter she did not return. Therefore, the petitioner No.1 herein filed a petition under Section 9 of the Hindu Marriage Act, 1995 on 28-11-2003 for restitution of conjugal rights, which came to be registered as C.S.

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No.206-A/2004. Notice of the same was sent to respondent No.4. The Court asked respondent No.4 to appear before the Court for the purpose of reconciliation. However, counsel for respondent No.4 took time for appearance of respondent No.4. However, in the meantime, on 18-11-2004 the petitioners were arrested by the police of State of Andhra Pradesh. They took them to Vijayawada from there they secured the bail.

4. Further case of the petitioners is that as the petitioner No.1 stayed with respondent No.4 at Vijayawada only for one day i.e. 21-11-2002 and thereafter complaint was made by respondent No.4 on 17-2-2004 just after one year and two months, as such respondent No.3 i.e. 4th Metropolitan Magistrate cum Mahila Magistrate, Vijayawada, Andhra Pradesh has no jurisdiction to take cognizance of the offence.

5. Learned counsel for the petitioners submitted that the petitioners went to Vijayawada only once at the time of marriage, thereafter the petitioner No.1 stayed only for one day with respondent No.4 at Vijayawada and at no time they have visited Vijayawada, therefore, the Court at Vijayawada has no jurisdiction to take cognizance of the offence under Sections 498-A and 420 of the I.P.C.. Relying on the decision of the Hon'ble Apex Court in the matter of **Y. ABRAHAM AJITH AND OTEHRS V. INSPECTOR OF POLICE, CHENNAI AND ANOTHER** reported in **(2004) 8 SCC 100**, learned counsel argued that since no part of alleged offence was committed at Vijayawada, as such the Court at Vijayawada has no jurisdiction to take cognizance of the offence against the petitioners.

6. Having heard learned counsel for the petitioners, I have perused the copy of the complaint Annexure-P/2 filed with this writ petition. In this connection, relevant provisions of the Code of Criminal Procedure are Sections 177 and 178. Section 177 of the Cr.P.C. envisages that 'every offence shall ordinarily be inquired into and tried by a Court

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within whose local jurisdiction it was committed' whereas, Section 178 of the Cr.P.C. envisages that '(a) When it is uncertain in which of several local areas an offence was committed, or (b) where an offence is committed partly in one local area and partly in another, or (c) where an offence is a continuing one, and continues to be committed in more local areas than one, or (d) where it consists of several acts done in different local areas.' Perusal of the complaint filed by respondent No.4 before the 4th Metropolitan Magistrate, Vijayawada discloses that at the time of marriage the parents of the complainant had given Rs.4,00,000/- to the accused Nos. 1 to 3. The parents of the complainant had also given 2 acres of agricultural land at the time of marriage as demanded by the accused. On payment, accused Nos. 1 to 3 expressed their satisfaction regarding payment. The accused persons also made a demand to the parents of the complainant to perform the marriage in a grand manner with huge expenses. Accordingly, the father of respondent No.4 herein borrowed amounts, spent Rs.2,00,000/- and met all exorbitant demands of the accused Nos. 1 to 3, besides that the accused was given jewellery of gold worth Rs.1,00,000/- and also given Sarees worth of Rs.70,000/-.

7. It has further been mentioned that at Bilaspur accused No.1 started harassing the complainant for bringing more dowry of Rs.2 lakhs from her parents and accused Nos. 2 & 3 were co-operating accused No.1 for illegal demands. The accused No.1 in order to fulfill his illegal demand of dowry always used to beat her black and blue and accused Nos. 2 and 3 always used to abuse the complainant for each and everything. The complainant was subjected to severe mental and physical torture in the hands of accused. In the month of January, 2003 accused sent the complainant to her parents house forcibly to bring Rs.2,00,000/-. When the father of the complainant expressed his inability, accused No.1 openly said that the amount of Rs.2,00,000/- is necessary for his personal expenditure and he will not allow respondent No.4 herein

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without payment of the said amount. In helpless condition respondent No.4 borrowed an amount of Rs.2,00,000/-. In the month of June, 2003 respondent No.4 and her parents paid that amount to the accused No.1. But, even thereafter there was no change. On 3-10-2003, the accused No.1 again asked the complainant to sign on the divorce papers and white papers that the complainant has no objection about second marriage of accused No.1. When the complainant refused to sign on the blank papers, accused No.1 beaten the complainant and she was taken for treatment to Vijayawada where accused No.2 telephoned. Thereafter, father of the respondent No.4 approached close relative of accused No.2 and called him to Vijayawada. On 17-10-2003, accused came to Vijayawada to finally demand the dowry amount and parents of the complainant with a hope that the fate of the complainant will be changed if they comply with their demand, borrowed amounts from their near and dear ones, and paid an amount of Rs.1,00,000/- to the accused. On 18-10-2003 in the presence of well-wishers of both the families, the accused No.1 and complainant executed a memorandum of agreement. The well-wishers of accused No.1 and complainant advised the parents of both the parties to establish separate family at Vijayawada, thereafter, accused Nos. 1 and 2 had stayed in the parental house of the complainant for 6 days at Vijayawada. Even during their stay at Vijayawada, accused No.1 used to pickup petty quarrel for petty things. Thereafter, again accused Nos. 1 and 2 put another condition to the parents of the complainant to pay Rs.1,00,000/- as additional dowry to put up family and further threatened that they will keep on beating.

8. In para-7 of the complaint it has been mentioned that the cause of action arose on 21-11-2002 at Vijayawada, on 3-10-2003 accused No.1 beat the complainant and on 18-10-2003 at Vijayawada accused No.1 and complainant arrived at notarized agreement and on the same day all the accused again demanded the amount of dowry, where the accused

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No.1 and complainant last resided, where the accused harassed the complainant for dowry at Vijayawada within limits of Machavaram Police Station.

9. Therefore, allegations in the complaint show that demand of dowry and harassment were alleged to have been taken place at both the places i.e. Bilaspur and Vijayawada. As per Explanation (b) to Section 498-A of the I.P.C. 'cruelty means harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand.' Therefore, the allegations in the complaint disclose that part of the offence was also committed at Vijayawada, therefore, in view of the provisions of clause (b) and (d) of Section 178 of the Cr.P.C. prima facie at this stage in view of allegations in the complaint it cannot be held that the 4th Metropolitan Magistrate, Vijayawada has no jurisdiction to try the case. Moreover, after detail evidence of the parties, the trial Court will be able to take decision about jurisdiction.

10. In view of the above facts, case law cited by learned counsel for the petitioner is of no help to the petitioners for the reason that in that case there were no allegations in the complaint that any part of the offence was committed at Chennai, the Hon'ble Apex Court held that no part of the offence was committed at Chennai, therefore, the Criminal Court at Chennai could not have tried the case.

11. In view of the foregoing discussion, I am of the opinion that this writ petition has no substance, same is liable to be dismissed and it is accordingly dismissed. No costs.

Sd/-
L.C.BHADOO
Judge

Barve

26-12-04